NOTIFICATION. 395

No. L.D. 1145 Bangalore, dated 14th March 1951.

Under Rule 36 of the Mysore Legislative Rules, The Mysore Irrigation (Amendment) Bill, 1951, together with statement of objects and reasons, is published for general information.

THE MYSORE IRRIGATION (AMENDMENT) BILL, 1951.

A Bill further to amend the Mysore Irrigation Act, 1932.

WHEREAS it is expedient further to amend the Mysore Irrigation Act, 1932, (Mysore Act I of 1932), for the purposes hereinafter appearing; Preamble.

It is hereby enacted as follows :—

1. (1) This Act may be called the Mysore Irrigation (Amendment) Act, 195. Short title and commencement.

(2) It shall come into force at once.

2. In section 3 of the Mysore Irrigation Act, 1932, (hereinafter referred to as the said Act),— Amendment of section 3 of Mysore Act I of 1932.

(*a*) after clause (4), the following clause shall be inserted, namely :—

"(4-A) 'Chief Engineer' means the Chief Engineer to the Government in charge of the Public Works Department;"

(*b*) after clause (5), the following clause shall be inserted, namely :—

"(5-A) 'Canal Officer' means an Officer appointed by the Government to exercise all or any of the powers of a Canal Officer in respect of any canal area notified in this behalf by the Government in the *Mysore Gazette*;"

(*c*) after clause (10), the following clause shall be added, namely :—

"(11) 'Government' means the State Government."

3. In section 4 of the said Act, after the words "Deputy Commissioner", a comma and the words "the Canal Officer" shall be inserted. Amendment of section 4 of Mysore Act I of 1932.

4. In sections 5 and 6 of the said Act, for the words "Irrigation Officer", the words "Canal Officer or Irrigation Officer" shall be substituted. Amendment of sections 5 and 6 of Mysore Act I of 1932.

Amendment of section 7 of Mysore Act I of 1932.

5. In section 7 of the said Act, for the words "an Irrigation Officer", the words "a Canal Officer or an Irrigation Officer" shall be substituted.

Omission of the words "of the District" in sections 8, 12, 13 and 16 of Mysore Act I of 1932.

6. The words "of the District" occurring in sections 8,12, 13 and 16 of the said Act, shall be omitted.

Amendment of section 8 of Mysore Act I of 1932.

7. In sub-section (1) of section 8 of the said Act, for the words "Revenue Commissioner", the words "Chief Engineer" shall be substituted.

Amendment of section 13 of Mysore Act I of 1932.

8. In section 13 of the said Act—

(1) in sub-section (1), for the words "or any other officer specially empowered by the Government in this behalf", the words "or the Canal Officer" shall be substituted ;

(2) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) From the order of a Deputy Commissioner or a Canal Officer under sub-section (1), an appeal shall lie to the Chief Engineer within ninety days from the date of such order."

Amendment of section 16 of Mysore Act I of 1932.

9. In of sub-section (1) section 16 of the said Act for the words "An Irrigation Officer", the words, figure and letter "Subject to the provisions of section 16-A, an Irrigation Officer" shall be substituted ; and for the words "wet crops", the words "paddy, sugarcane or any perennial crop or intermittent irrigated dry crops" shall be substituted.

Insertion of a new section 16-A in Mysore Act I of 1932.

10. After section 16 of the said Act, the following section shall be inserted, namely :—

Power to prescribe the kind of crop to be grown under an irrigable area and the period of sowing such crop.

"16-A. (1) An officer, not below the rank of an Executive Engineer authorised by the Government in this behalf, may, in consultation with the Deputy Commissioner or the Canal Officer specify, by notification published in such manner as may be prescribed, the kind of crop that shall be grown on any land under any irrigation work, and the period of sowing and planting such crop.

(2) On the publication of a notification under sub-section (1), no person shall grow or allow any crop other than the crop specified in such notification to be grown on any land under such irrigation work and no person shall sow or plant or allow the sowing or planting of crop at any time other than during the period specified in such notification."

11. After section 17 of the said Act, the following sections shall be inserted, namely :— Insertion of new sections 17-A and 17-B in Mysore Act I of 1932.

"17-A. Every owner or occupier of land which receives a supply of water from any irrigation work, shall be bound to carry out such directions relating to the maintenance of the irrigation work and the use of water supplied therefrom as the Irrigation Officer may, by order in writing, specify. Obligations of owners of land receiving water from an irrigation work.

17-B. If it is necessary to acquire any land for the purposes of this Chapter, an officer not below the rank of an Assistant Commissioner, specially empowered by the Government in this behalf, may proceed to acquire the same under the provisions of the Mysore Land Acquisition Act, 1894." Acquisition of land to ensure supply of water.

12. For section 25 of the said Act, the following section shall be substituted, namely :— Substitution of a new section for section 25 of Mysore Act I of 1932.

"25. Whenever the construction, restoration or improvement of any irrigation work is proposed to be undertaken, the Government shall direct the officer appointed by it in this behalf to hold an enquiry in the manner hereinafter provided, and to prepare a scheme indicating the lands irrigable by such irrigation work and specifying the rates of contribution and water rates which may be levied in respect of such lands." Preliminary enquiry to be held when the levy of acreage contribution or water rate or both is necessary for undertaking construction, restoration or improvement of an irrigation work.

Amendment of section 26 of Mysore Act I of 1932.

13. In section 26 of the said Act, for the words "The Deputy Commissioner or other officer appointed to make an enquiry", the words "The Officer appointed to hold an enquiry under section 25" shall be substituted.

Substitution of new sections for sections 27 and 28 of Mysore Act I of 1932.

14. For sections 27 and 28 of the said Act, the following sections shall be substituted, namely :—

Report of the enquiring officer.

"27. On the date fixed for holding an enquiry under section 26 or on such other date to which the enquiry may be adjourned, the officer shall hold a formal enquiry in the manner provided in the Mysore Land Revenue Code, 1888, and after considering any objections or suggestions duly submitted and the evidence, if any, produced and taking such further evidence as he thinks necessary, shall embody his proceedings in a report and submit it to the Government, together with a statement of objections and suggestions presented to him and any remarks he may desire to make in respect of them.

Government may abandon scheme or proceed with it with modifications.

28. On receipt of the report under section 27, the Government may, after such further enquiry, if any, as they may make, either abandon the scheme or proceed with the scheme in the original form or with such modifications as they may consider necessary.

Government may exclude operation of sections 25, 26 and 27.

28-A. The Government may, by notification in the *Mysore Gazette*, declare that the provisions of sections 25, 26 and 27 shall not apply to the construction or restoration or improvement of any irrigation work or any class of irrigation works and on the publication of such declaration, a scheme prepared by such officer as the Government may appoint, shall be dealt with under section 28, as if it were a scheme submitted under section 27."

Amendment of section 29 of Mysore Act I of 1932.

15. In section 29 of the said Act,—

(1) in sub-section (1), clauses (*a*), (*b*) and (*f*) shall be omitted and clauses (*c*), (*d*) and (*e*) shall be re-lettered as clauses (*a*), (*b*) and (*c*);

(2) sub-section (2) shall be omitted;

(3) sub-sections (3) and (4) shall be re-numbered as sub-sections (2) and (3) respectively, and in sub-section (2) as so re-numbered, for the brackets and letter "(*e*)", the brackets and letter "(*c*)" shall be substituted.

16. In section 31 of the said Act,— Amendment of section 31 of Mysore Act I of 1932

(*a*) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1-A) In calling upon the able bodied male persons to assist in the execution of any work by their labour under sub-section (1), no discrimination shall be made on grounds only of religion, race, caste or class or any of them."

(*b*) in sub-section (2), after the words "Deputy Commissioner", the words "and the Canal Officer" shall be added.

17. In section 45 of the said Act, for the words "to the Revenue Commissioner" the words "to such officer as the Government may, by notification in the *Mysore Gazette*, appoint" shall be substituted. Amendment of section 45 of Mysore Act I of 1932.

18. In Chapter X of the said Act, before section 46, the following sections shall be inserted, namely :— Insertion of new sections 45-A, 45-B, 45-C, 45-D and 45-E before section 46 of Mysore Act I of 1932.

"45-A. If water supplied through a water course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred, cannot be identified, Liability when person using water unauthorisedly cannot be identified.

the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom :

or, if no land has derived benefit therefrom, the person, or all the persons chargeable in respect of the water supplied through such water course,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use

under the rules made by the Government under section 56.

Liability when water runs to waste.

45-B. If water supplied through a water-course be suffered to run to waste, and, if, after enquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, the person or all the persons chargeable in respect of the water supplied through such water-course, shall be liable or jointly liable, as the case may be, for the charges which shall be made in respect of the water so wasted, under the rules made by the Government under section 56.

Decision of questions under sections 45-A and 45-B.

45-C. (1) All questions arising under section 45-A or section 45-B, shall be decided by orders, in writing, by the Irrigation Officer.

(2) From any order of the Irrigation Officer under sub-section (1), an appeal shall lie, within thirty days from the date of service of the said order on the person concerned, to the Deputy Commissioner, whose decision thereon shall be final.

Charges for unauthorised use or waste of water recoverable in addition to penalties.

45-D. All charges for the unauthorised use or waste of water under section 45-A or 45-B, may be recovered, as water rates, in addition to any penalties incurred on account of such use or waste.

Interpretation of "Water-course."

45-E. For the purposes of sections 45-A, 45-B, 45-C, and 45-D, 'water-course' includes any channel or pipe supplied with water from an irrigation work and which is maintained at the cost of the Government."

Amendment of section 46 of Mysore Act I of 1932.

19. In section 46 of the said Act,—

(*a*) after clause (*x*), the following clause shall be inserted, namely :—

"(*x-a*) contravenes the provisions of sub-section (2) of section 16-A or any order made under section 17-A ;"

(*b*) in the last paragraph, (i) after the figure and brackets "(*x*)", a comma and the figure, letter and brackets "(*x-a*)" shall be inserted ;

(ii) for the words "with fine which may extend to one hundred rupees", the words "with

imprisonment for a term which may extend to two months or with fine which may extend to five hundred rupees or with both" shall be substituted.

(iii) for the words "with fine which may extend to fifty rupees" the words "with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both" shall be substituted.

Amendment of section 52 of Mysore Act I of 1932.

20. In section 52 of the said Act,—

(*a*) after the words "Revenue Commissioner" wherever they occur, the words "or Chief Engineer" shall be inserted; and

(*b*) after the words "Deputy Commissioner", the words "or a Canal Officer" shall be inserted.

Insertion of new sections 52-A and 52-B in Mysore Act I of 1932.

21. After section 52 of the said Act, the following sections shall be inserted, namely:—

Special rules of evidence.

"52-A. Notwithstanding anything contained in the Indian Evidence Act, 1872, (I of 1872), in prosecutions under clause (*ii*) or clause (*xii*) of section 46, it shall be presumed, until the contrary is proved, that the accused person has committed an offence under the said provision in respect of any irrigation work or water course.

Offences under Act to be cognizable.

52-B. Notwithstanding anything contained in the Code of Criminal Procedure, 1904 (II of 1904), all offences punishable under this Act, shall be cognizable."

Statement of Objects and Reasons.

Instances of unauthorised use and wastage of water in the Visvesvaraya Canal and other channe areas are being brought to notice and channel offences of this kind are on the increase. Under the existing provisions of law which are contained in section 46 of the Mysore Irrigation Act, 1932, such offences are dealt with by Magistrates in the ordinary course of law, the offenders being punishable with fine which may extend to one hundred rupees. Since these provisions are inadequate to prevent the offences, it is considered necessary to supplement them with other enabling provisions so as to vest suitable powers in the departmental officers to penalise the offenders direct. Such provisions have been made in sections 45, 46 and 47 of the Bombay Irrigation Act, 1879, whereby offences are dealt with by the departmental officer and the penal charges are preferred along with the water bills. It is considered desirable to have similar provisions in the Mysore Irrigation Act. The working of the Act especially in the channel areas has disclosed certain administrative difficulties, and it is proposed to rectify them by providing for the appointment of Canal Officers in respect of such areas who shall be authorised to exercise certain powers, such as, regulation of water supply, etc. It is also proposed to empower the Chief Engineer in charge of the Public Works Department, in place of the Revenue Commissioner, to hear appeals under sections 8 and 13. This Bill has accordingly been brought forward.

The salient features of the Bill are :—

(1) The land-owners entitled to water under an irrigation work are put under an obligation to carry out the directions relating to the maintenance of the irrigation work and use of water given by an Irrigation Officer. Power is taken to prescribe the kind of crop that shall be grown under an irrigation work or water course and the period of sowing or planting of such crop and also to acquire lands in order to ensure equitable supply of water.

(2) At present when preliminary enquiry is held for undertaking construction or improvement of an irrigation work necessitating the levy of acreage contribution or water rate or both, the holders of at least two-thirds of

the land within the benefited area have to give their consent to the construction, or improvement and to the payment of the contribution or water rate, or both, before the enquiring officer can make a report to the Government. It is proposed to dispense with this requirement if the Government so direct in any case.

(3) Power is vested in the Irrigation Officer to levy penal charges in cases of unauthorised use of water and wastage of water, when the offenders are unascertainable. The penal charges leviable in respect of such offences are regulated by rules prescribed in this behalf by the Government, and are recoverable in the same manner as water rates. Any order made by an Irrigation Officer is appealable to the Deputy Commissioner.

(4) Provision has been made for awarding a sentence of imprisonment for a contravention of certain provisions of the Act in lieu of or in addition to a fine which is leviable at present. In the prosecution of any offender for an offence pertaining to interference with any irrigation work, provision has been made that the courts shall presume, until the contrary is proved, that he has committed that offence. Lastly, offences punishable under the Act are made cognizable.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.